



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,069	12/17/2001	Andrea Maria Zamponi	1999/C-001	5624

7590

04/10/2003

Ashley I. Pezzner, Esquire  
CONNOLLY BOVE LODGE & HUTZ LLP  
1220 Market Street  
P.O. Box 2207  
Wilmington, DE 19899

EXAMINER
----------

EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
----------	--------------

1751

9

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/022,069

Applicant(s)

ZAMPONI, ANDREA MARIA

Examiner

Margaret Einsmann

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) 89-176 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 96-104, drawn to a dye mixture of dye A with dye I , classified in class 8, subclass 543-549, 638 and others.
- II. Claims 105-113, drawn to a dye mixture of dye A with dye II, classified in class 8, subclass 543-549, 638 and others.
- III. Claims 114-117, drawn to a dye mixture of dye A with dye III , classified in class 8, subclass 543-549, 638 and others.
- IV. Claims 118-136, drawn to a dye mixture of dye A with dye IV , classified in class 8, subclass 543-549, 638 and others.
- V. Claims 137-156, drawn to a dye mixture of dye A with dye V , classified in class 8, subclass 543-549, 638 and others.
- VI. Claims 157-162, drawn to a dye mixture of dye A with dye IV , classified in class 8, subclass 543-549, 638 and others.
- VII. Claim 89 section IX first mixture, drawn to a dye mixture of dye A with dye (33) , classified in class 8, subclass 549 and 641.
- VIII. Claim 89 section IX second mixture, drawn to a dye mixture of dye A with dye (39) , classified in class 8, subclass 543 , 641 and others.
- IX. Claims 171, drawn to a dye mixture of dye A with dye X , classified in class 8, subclass 543 , 641 and others.

Art Unit: 1751

X. Claims 174 and 175, drawn to a dye mixture of dye A with dye XI ,  
classified in class 8, subclass 543-549, 638 and others.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-X are unrelated. Each invention contains a mixture of dyestuff A with another reactive dye B. The reactive dyes are unrelated to each other and fall into several distinct structural classes. Accordingly they are different inventions.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Claims 89-176 are generic to a plurality of disclosed patentably distinct species comprising dye mixtures. After choosing an invention from the groups indicated above, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species selected from the examples, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

In the above restriction, only the section of claim 89 relating the mixture of dye I mixed with the particular second dye noted in the restriction will be examined. Applicant will be required to amend claim 89 to delete the non-elected inventions. **Regarding claims 89-95 and 176, they are linking claims and will be examined with the elected group.**

***Claims 162-170, 172 and 173 are withdrawn from consideration for being so confusing as to negate examination for three reasons.*** In the first place there are two dyes VIII in claim 89. Accordingly, it is impossible to determine which is claimed in the claims naming claim VIII. In the second place, claim 165 is dependent on a canceled claim. In the third place, claim 172 is dependent on claim 173, while claim 173 is dependent on claim 172.


This application has been filed as a continuation of PCT/IB00/00902 under 35 USC 120. See declaration. Accordingly, the papers filed December 17, 2001 filing this application as a national stage application under 35 C.F.R. 371 have been placed in the file but have not been processed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 703-308-3826. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

Art Unit: 1751

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Margaret Einsmann  
Primary Examiner  
Art Unit 1751

April 8, 2003